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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,722	02/20/2004	Peter C. Vail	5086-0001	6621

7590 04/20/2005
Michael L. Diaz
Suite 200
555 Republic Drive
Plano, TX 75074

EXAMINER

RAMIREZ, RAMON O

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 04/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/783,722

Applicant(s)

VAIL, PETER C.

Examiner

RAMON O. RAMIREZ

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 February 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/20/04
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

Detailed Action

This is the Office Action corresponding to original filing. The application contains 20 claims.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-3, and 14-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (Pat No 4,905,945).

The patent to Peterson discloses a boot (10) receiving a trash can (14). The shape of the boot would correspond to the shape of the trash can; the type of garbage can would be a matter of expediency since various types of cans are available in the market; the material from which the device is being made is seen as a matter of engineering choice.

Claims 4-13 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (Pat No 4,905,945) in view of Sherman (Pat No 3,272,466).

The patent to Sherman discloses a device having a boot (12) having a central hole defining a supporting shelf receiving a tall container (10).

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It would have been obvious to one skilled in the art at the time the invention was made to have provided the boot shown by Peterson with a central hole defining a shelf as shown by Sherman to receive the can.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Peterson (Pat No 4,905,945) in view of Sherman (Pat No 3,272,466) and Reid (Pat No 4,342,131). The patent to Reid shows a boot (56) having wheels (28), the boot receiving a tall container.

It would have been obvious to one skilled in the art at the time the invention was made to have provided the device set forth above with wheels as shown by Reid to make easy to move the container from location to another.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Grebowiec (2,837,245) shows a device that reads as a 103 reference against most of the above claims. Greenheck (4,103,919) shows a garbage can and wheels for transporting it. Schoenthaler (D 323,296) and Whiteagle (D 481,505) show square boot devices.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to RAMON O. RAMIREZ whose telephone number is (571) 272-6821. The examiner can normally be reached on MONDAY-FRIDAY, IST FRIDAY OFF.

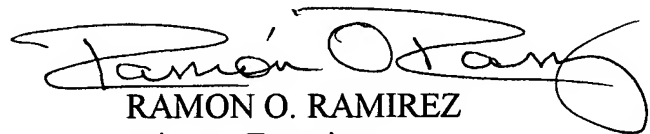
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESLIE BRAUN can be reached on (571) 272-6815.

The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A shortened period for response to this Office Action expires THREE MONTHS from the mailing date of this action.

ROR
April 7, 2005


RAMON O. RAMIREZ
Primary Examiner
Art Unit 3632